

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ANTWIONE A. PARSLEY,	:	
Petitioner,	:	Civ. No. 20-16397 (NLH)
v.	:	MEMORANDUM ORDER
THE ATTORNEY GENERAL OF THE	:	
STATE OF NEW JERSEY, et al.,	:	
Respondents.	:	

APPEARANCE:

Antwione A. Parsley
740631/299084-D
New Jersey State Prison
PO Box 861
Trenton, NJ 08625

Petitioner Pro se

HILLMAN, District Judge

WHEREAS, Petitioner Antwione A. Parsley seeks to bring a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his conviction in the Superior Court of New Jersey, Law Division, Salem County, see ECF No. 1; and

WHEREAS, Petitioner conceded his petition was unexhausted and moved for a stay of the proceedings pending his completion of state court remedies, see ECF No. 2; and

WHEREAS, the Court granted the request and stayed the § 2254 proceedings, ECF No. 3; and

WHEREAS, on June 23, 2021, Petitioner wrote to the Court stating that he has completed his state court proceedings and wanted to reopen his § 2254 proceedings, ECF No. 4; and

WHEREAS, the Court will grant Petitioner's request to reopen the matter and direct the Clerk to lift the stay and restore the matter to the active docket; and

WHEREAS, in accordance with Rule 4 of the Rules Governing Section 2254 Cases, this Court has screened the Petition, ECF No. 1, for dismissal and determined that dismissal without an answer and production of the record is not warranted,

THEREFORE, IT IS on this 25th day of June, 2021 ORDERED that the Clerk shall lift the stay and restore this matter to the active docket; and it is further

ORDERED that the Clerk shall serve, pursuant to Rule 4 of the Habeas Rules, a Notice of Electronic Filing of this Order on the State of New Jersey, Department of Law & Public Safety, Division of Criminal Justice, Appellate Bureau ("the Bureau"), in accordance with the Memorandum of Understanding between this Court and the Bureau; and it is further

ORDERED also in accordance with the Memorandum of Understanding, that if the Bureau intends to refer the action to a County Prosecutor's Office, the Bureau will use its best efforts to upload to CM/ECF a "referral letter" indicating the

name of that office within fourteen (14) calendar days from the date of the Order to Answer; and it is further

ORDERED that, where the Petition appears to be untimely under the Antiterrorism and Effective Death Penalty Act of 1996, within forty-five (45) days of the date this Order is filed, Respondent may file a Motion to Dismiss the Petition on timeliness grounds only, provided that the motion: (1) attaches exhibits that evince all relevant state court filing dates; (2) contains legal argument discussing pertinent timeliness law; and (3) demonstrates that an Answer to the merits of the Petition is unnecessary; and it is further

ORDERED that, if a Motion to Dismiss is filed, Petitioner shall have thirty (30) days to file an opposition brief, in which Petitioner may argue any bases for statutory and/or equitable tolling, and to which Petitioner may attach any relevant exhibits; and it is further

ORDERED that, if Petitioner files an opposition, Respondent shall have ten (10) days to file a reply brief; and it is further

ORDERED that, if the Motion to Dismiss is subsequently denied, the Court will then direct Respondent to file a full and complete answer to all claims; and it is further

ORDERED that if Respondent does not file a Motion to Dismiss the Petition, they shall file a full and complete answer

to all claims asserted in the Petition within forty-five (45) days of the entry of this Order; and it is further

ORDERED that Respondent's answer shall respond to each factual and legal allegation of the Petition, in accordance with Habeas Rule 5(b), and contain any affirmative defenses Respondent wishes to raise; and it is further

ORDERED that Respondent's answer shall address the merits of each claim raised in the Petition by citing to relevant federal law; and it is further

ORDERED that Respondent's answer shall adhere to the requirements of Habeas Rule 5(c) and (d) in providing the relevant state court record of proceedings, including any pro se filings; and it is further

ORDERED that the answer shall contain an index of exhibits identifying each document from the relevant state court proceedings that is filed with the answer; and it is further

ORDERED that Respondent shall electronically file the answer, the exhibits, and the list of exhibits; and it is further

ORDERED that all exhibits to the Answer must be identified by a descriptive name in the electronic filing entry, for example:

"Exhibit #1 Transcript of [type of proceeding] held on XX/XX/XXXX" or

"Exhibit #2 Opinion entered on XX/XX/XXXX by Judge YYYY"; and it is further

ORDERED that Petitioner may file and serve a reply to the answer within forty-five (45) days after Respondent file the answer, see Habeas Rule 5(e); it is further

ORDERED that any request to deviate from this Order shall be by motion; and it is further

ORDERED that, within seven (7) days after any change in Petitioner's custody status, be it release or otherwise, Respondent shall electronically file a written notice of the same with the Clerk of the Court; and is finally

ORDERED that the Clerk shall send a copy of this Order to Petitioner by regular mail.

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.